IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

Crl.MC.No. 4032 of 2006()

CC.725/2003 of JUDL.MAGISTRATE OF FIRST CLASS, SASTHAMCOTTA

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PETITIONER: ACCUSED

SANAL KUMAR, AGED 34, S/O. AYYAPPAN
PILLAI, IKARAZHIKATHU VEETTIL, KOIKKAL BHAGAM
MURI, PADINJAREKALLADA VILLAGE,
KOLLAM DISTRICT.

BY ADV. SRI.VINOY VARGHESE KALLUMOOTTILL

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SREEJA, D/O. SARASWATHI AMMA,
SREEKAILASAM, KOIKKAL MURI, EAST KALLADA VILLAGE,
KOLLAM DISTRICT.

ADV.SMT.RESHMI POULOSE FOR R2
BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.4032 of 2006

Dated this the 13th day of December 2006

O R D E R

The petitioner faces indictment in a prosecution under Section 498(A) I.P.C. The prosecution was initiated on the basis of a private complaint filed by the respondent/wife. The same was referred to the police under Section 156(3) Cr.P.C. Later, after investigation, final report was filed and cognizance was taken by the learned Magistrate. The petitioner herein is the only accused and the allegation raised against him is only under Section 498(A) I.P.C.

2. The learned counsel for the petitioner and the second respondent/wife have been heard. It is submitted that the matter has been settled between the parties and the second respondent has compounded the offence allegedly committed by the petitioner. Copy of the agreement between the parties is produced as Annexure A3. The marital tie has been dissolved as per Annexure A2 order passed by the Family Court. The learned counsel for the petitioner submits that in the light of the settlement of the dispute and composition of the offence by the second respondent, powers under Section 482 Cr.P.C may be invoked and the proceedings against the petitioner may be brought to premature termination. Such course is approved

by the Supreme Court in the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386], it is pointed out.

3. I am satisfied that the parties have settled their disputes amicably and that the complainant/second respondent has compounded the offence under Section 498A I.P.C allegedly committed by the petitioner. The parties have now settled their disputes and are living separately. The second respondent has re-married also, it is submitted. In these circumstances, the prosecution has lost its meaning, relevance and significance. I find merit in the submission that the prosecution can be brought to termination by invoking the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386].

4. In the result:

a) This Criminal Miscellaneous Case is allowed.

b) C.C.No.725 of 2003 pending before J.F.M.C Sasthamkotta is hereby quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006